

JOSEPH K. KAMELAMELA 2493
Corporation Counsel

LOCKEY WHITE 10487
JOHN MUKAI 5344
Deputies Corporation Counsel
County of Hawai'i
Office of the Corporation Counsel
101 Aupuni Street, Suite 325
Hilo, Hawai'i 96720
Telephone: (808) 961-8251
Facsimile: (808) 961-8622
Email: Lockey.White@hawaiicounty.gov

Attorneys for Defendants

HAWAI'I POLICE DEPARTMENT, PAUL K. FERREIRA, in his official
and individual capacities, AND HARRY S. KUBOJIRI, in his official and
individual capacities

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

JAMI L. HARPER,

Plaintiff,

vs.

HAWAI'I POLICE DEPARTMENT;
PAUL K. FERREIRA, in his official
and individual capacities; HARRY S.
KUBOJIRI, in his official and
individual capacities; and DOE
DEFENDANTS 1-50,

Defendants.

Case No. _____
(Other Non-Vehicle Tort)

DEFENDANTS HAWAI'I POLICE
DEPARTMENT, PAUL K. FERREIRA, in
his official and individual capacities, AND
HARRY S. KUBOJIRI, in his official and
individual capacities' NOTICE OF
REMOVAL; DECLARATION OF LOCKEY
E. WHITE; EXHIBIT "A"; CERTIFICATE
OF SERVICE

DEFENDANTS HAWAI'I POLICE DEPARTMENT, PAUL K. FERREIRA, in his official and individual capacities, AND HARRY S. KUBOJIRI, in his official and individual capacities' NOTICE OF REMOVAL

Defendants HAWAI'I POLICE DEPARTMENT ("Defendant HPD"), Defendant PAUL K. FERREIRA, in his official and individual capacities ("Defendant Ferreira") and Defendant HARRY S. KUBOJIRI, in his official and individual capacities ("Defendant Kubojiri")(collectively referred to as "County Defendants"), by and through their undersigned counsel, respectfully show:

1. The County Defendants are identified as defendants in the action denoted as Civil No. 18-1-109K, brought against them in the Circuit Court of the Third Circuit, State of Hawai'i, and entitled *JAMI L. HARPER vs. HAWAI'I POLICE DEPARTMENT; PAUL K. FERREIRA, in his official and individual capacities; HARRY S. KUBOJIRI, in his official and individual capacities; and DOE DEFENDANTS 1-50*. A true and correct copy of the Complaint filed on May 23, 2018 ("Complaint") is attached hereto as Exhibit "A". The County Defendants were each served with the Complaint on or about September 13, 2018. Therefore, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days from the date of service.

2. The Complaint seeks damages for alleged discriminatory practices prohibited by the American with Disabilities Act as adopted by the State of Hawai'i and codified in the Hawai'i Administrative Rules HAR § 12-46-181 and

HAR § 12-46-183. The Complaint also seeks a ruling regarding the phrase “adjudicated as a mental defective” as defined in 27 CFR §478.11 and pursuant to 18 U.S.C. Chapter 44 which, if decided in County Defendants’ favor, would preclude Plaintiff’s claims and possible remedy of reinstatement. Therefore, the Complaint raises a federal question pursuant to 28 U.S.C. § 1331 and is subject to removal pursuant to 28 U.S.C. § 1441.

3. This is a civil action brought in the State court of which the United States Court has original jurisdiction under 28 U.S.C. § 1441 because this action involves a claim of rights arising under the United States Constitution and a determination of Federal Law.

4. The acts alleged in the Complaint took place in the State of Hawai‘i therefore, venue is proper.

5. The County Defendants deposits herewith the sum of FOUR HUNDRED AND NO/100 DOLLARS (\$400.00), conditioned as required by Act of Congress, to pay for all costs and disbursements incurred by reason of this removal proceeding.

6. Pursuant to 28 U.S.C. § 1446(a), attached hereto as Exhibit “A” is a copy of all process, pleadings, and orders served on the County.

WHEREFORE, the County Defendants prays that the above-entitled action be removed from the Third Circuit Court of the State of Hawai‘i to the United States District Court for the District of Hawai‘i, in accordance with the provisions of 28 U.S.C. §§ 1441 and 1446.

Dated: Hilo, Hawai‘i, October 3, 2018.

HAWAI‘I POLICE DEPARTMENT, PAUL K. FERREIRA, in his official and individual capacities, AND HARRY S. KUBOJIRI, in his official and individual capacities, Defendants

By /s/ Lockey E. White
LOCKEY E. WHITE
Deputy Corporation Counsel
Their attorney